

REMARKS

This amendment cancels claim 138 and adds claims 169-177. As a result, claims 130-137, 139-144, and 169-177 are pending. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Specification and Claim Objections

The specification and claims 130-137, 139-144 stand objected to for having various informalities, which have been corrected by the amendments made in the Amendment After Final, dated August 3, 2006. As such, Applicant respectfully requests withdrawal of the specification and claim objections.

Claim Rejections-35 U.S.C. §102

Claims 130-137, 139, 140 and 142-144 stand rejected under §102(b) as being anticipated by U.S. Patent No. 5,783,814, issued to Fairley et al. ("Fairley"). Applicant respectfully traverses this rejection, since Fairley does not disclose each and every element required by these claims, as amended.

In the Office Action, the Examiner referred to Figs. 7 and 8 for the proposition that Fairley discloses that the fine focus actions comprise imaging. In an Advisory Action, dated July 20, 2006, the Examiner referred to col. 3, lines 29-35 for the proposition that the Fairley discloses imaging in the true sense of the word. While Applicant maintains that the focus actions described with reference to Figs. 7 and 8 do not include imaging, and that the focus actions do not include the imaging described in col. 3, lines 29-35, Applicant has amended independent claim 130 to require that each of the obtained slide images have a

two-dimensional array of pixels, and that one of the coordinates at which the images are obtained be selected as a fine in-focus coordinate based on an examination of the pixel arrays. Support for this amendment can be found in paragraphs [154]-[155], which describe the images taken during the fine focus actions as having two-dimensional pixel arrays, and the scoring of those images to determine an in-focus position, and paragraph [147], which describes the determination of a focal score for an imaging position along a focal axis based on an examination of a two-dimensional pixel array. Fairley simply does not disclose these additional features.

Thus, Applicant submits that independent claim 130, as well as the claims depending therefrom (claims 131-137, 139, 140 and 142-144), are not anticipated by Fairley, and as such, respectfully request withdrawal of the rejection of these claims.

Claim Rejections-35 U.S.C. §103

Claim 141 stands rejected under 35 U.S.C. §103, as being obvious over Fairley in view of U.S. Patent No. 5,257,182 issued to Luck et al. ("Luck"). Applicant respectfully traverses this rejection, since no proper combination of Fairley and Luck discloses, teaches, or suggests the combination of elements required by claim 141.

In particular, as discussed above, Fairley does not disclose the fine focus actions specified in claim 130 from which claim 141 depends, and Luck fails to supplement this failed teaching. Thus, Applicant submits that claim 141 is not obvious over any combination of Fairley and Luck, and as such, respectfully requests withdrawal of the §103 rejection of this claim.

Newly Added Claims

Applicant submits that newly added claims 169-177 are supported by the specification, as originally filed (see specifically paragraphs [147], [150], and [154]-[156]), and are patentable over the cited prior art for at least the same reasons as independent claim 130 from which they depend are patentable.


Conclusion

Based on the foregoing, it is believed that all claims are allowable, and thus, a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (949) 724-1849.

Respectfully submitted,

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